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NEW YORK MORTGAGE BROKER AND 3 ASSOCIATES
CHARGED IN MULTIMILLION DOLLAR ADVANCED FEE SCHEME

JAMES B. COMEY, the United States Attorney for the Southern District of New York, and PASQUALE D'AMURO, the Assistant Director in Charge of the New York Office of the FBI, announced today that AVRAM LEBOR, WAYNE SCHAFFNER, DONALD KLABIN, and PETER CARLO, commercial mortgage brokers, were charged with scheming to defraud loan applicants of millions of dollars in advance fees by falsely promising to provide loans, and then failing to fund the loans and refusing to return the advance fees.

According to the two-count Complaint unsealed today in Manhattan federal court, from late 1999 to May 2002, LEBOR, the president of MKD Capital Corporation ("MKD"), and SCHAFFNER, MKD's executive vice-president, promised loans totaling at least \$2.5 billion to more than 70 borrowers, none of which was ever funded, and collected "refundable" application fees totaling at least \$9.7 million, which were never returned. According to the Complaint, CARLO and KLABIN assisted the fraudulent scheme by

claiming to be, or to have access to, lenders and other sources with millions of dollars in available funds, and by providing plausible excuses for delays in funding.

According to the Complaint, LEBOR and SCHAFFNER held themselves out as experienced mortgage bankers who had the ability to fund, and were prepared to fund, multimillion dollar loans to companies and individuals seeking financing for various commercial development projects, upon MKD's approval of borrowers' loan applications. LEBOR and SCHAFFNER also allegedly represented that MKD could fund loans quickly.

As detailed in the Complaint, applicant borrowers were required to pay an "application deposit" of approximately 1% of the total loan amount as a condition of MKD's application review and loan commitment, part of which was generally due at the time of application, and the remainder of which was due at the time of MKD's commitment. According to the Complaint, LEBOR and SCHAFFNER represented to borrowers that the application deposit was "fully refundable" if, through no fault of the borrower, the loan did not fund.

As described in the Complaint, LEBOR and SCHAFFNER initially told borrowers that funds for their loans would come from a particular funding source, which would soon provide funds for the loan. But then, allegedly after borrowers had paid all or part of their advance fees, LEBOR and SCHAFFNER repeatedly postponed the borrower's closing date, citing minor or

administrative delays attributed to the funding source - not to MKD. According to the Complaint, when no funding was forthcoming, LEBOR and SCHAFFNER claimed to have found a new funding source, and repeat the pattern without funding the loan.

Specifically, the Complaint alleges that from February 2000 through May 2002, LEBOR and SCHAFFNER made the following claims, among others, about the sources of MKD funding: (a) a Seattle securities company would sell bonds insured by a Swiss insurance company to raise funds for the loans, in a deal brokered by PETER CARLO; (b) a \$1.5 billion Swiss fund managed by DONALD KLABIN had allocated \$1 billion of the fund's resources specifically for MKD projects; (c) the Government of Papua New Guinea had authorized MKD to "pledge" approximately \$3 billion in national oil and gas reserves to raise funds for MKD loans; (d) individuals in Turkey had assigned to MKD \$154 million worth of "safekeeping receipts" held in a bank in the Phillippines; and (e) a power company in India had promised MKD approximately \$5 billion in "prime bank guarantees" in weekly installments of \$100 million.

The Complaint states that in reliance on MKD's promises to provide loans, the borrowers spent from thousands to millions of dollars on their development projects, including fees for architects, attorneys and appraisers, to prevent the foreclosure

of properties, or to extend closing dates under other contracts which could not be closed due to MKD's failure to perform. According to the Complaint, the borrowers advised LEBOR and SCHAFFNER that they risked losing this money if their loans did not fund, and attempted, without success, to obtain specific information about and proof of the sources of MKD's funding from LEBOR and SCHAFFNER.

According to the Complaint, LEBOR and SCHAFFNER used various means to lull borrowers into deferring requests for refunds of their applications deposits including (a) sending e-mails to borrowers, sometimes on virtually a daily basis, describing minor or administrative reasons for the delay in MKD's funding, and reassuring borrowers that the funding of their loans was imminent; and (b) soliciting correspondence from KLABIN, CARLO, and others which LEBOR and SCHAFFNER claimed to borrowers "confirmed" that funds for MKD's loans would soon be forthcoming, while omitting material information that would have revealed the opposite. For example, the Complaint alleges that at LEBOR's request, KLABIN wrote a letter stating that he was the chief executive for a Swiss financial holding company that had received \$1.5 billion in funding, and that \$1 billion of the company's assets had been allocated to MKD projects, even though LEBOR knew that KLABIN's fund was not even licensed to do business at the time.

According to the Complaint, LEBOR transferred at least \$3.7 million of the \$9.7 million in application deposits to family members, including his wife, his mother, one of his sons, and the son's company, as well as to CARLO, KLABIN, and SCHAFFNER.

LEBOR, SCHAFFNER, KLABIN and CARLO are charged with wire fraud and conspiracy to commit wire fraud. If convicted, each defendant faces a maximum sentence of five years in jail and the greater of \$250,000 fine or twice the gross gain or loss resulting from the crime on each count.

LEBOR, 55, lives in Lawrence, New York.

WAYNE SCHAFFNER, 56, lives in Little River, South Carolina.

DONALD KLABIN, 56, lives in Belmont, Massachusetts

PETER CARLO, 59, lives in Scottsdale, Arizona.

Mr. COMEY praised the efforts of the Federal Bureau of Investigation in the investigation of this case.

Mr. COMEY said the investigation is continuing.

Assistant United States Attorney JENNIFER M. MOORE is in charge of the prosecution.

The charges contained in the Complaint are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

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